

REMARKS

Claims 34-73 are pending and subject to a restriction requirement. No claims are added, amended, or canceled.

In regard to the pending claims, Applicants have copied claims 1, 2, 5, 10, 16-19, 24, 32-34, 43 and 52 of U.S. Patent No. 6,472,209, issued on October 29, 2002. The remaining pending claims are at least directed to substantially the same subject matter as claims that issued in U.S. Patent No. 6,472,209. Since this amendment presenting these claims was filed prior to October 29, 2003, Applicants have complied with the requirements of 35 USC §135(b)(2) as well as 37 CFR 1.604(b). Applicants believe that an interference between the instant application and U.S. Patent No. 6,472,209 is likely and restricting the claims to multiple applications would not be an efficient way for the Patent Office to resolve this issue.

Applicants respectfully request that the Examiner's proposed restriction of the claims be reconsidered and withdrawn. MPEP § 803 identifies two criteria that must be met for a proper requirement for restriction:

- (A) the recited inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 to § 806.05(i)); and
- (B) there must be a serious burden on the examiner if restriction is not required (MPEP § 803.02, § 806.04(a) to § 806.04(i), § 808.01(a), and § 808.02).

Neither of these criteria has been satisfied with respect to the instant claims. The evidence of record, for example, demonstrates that the claims are not directed to independent and distinct inventions. As Applicants noted at the time they filed this patent application, claims 1, 2, 5, 10, 16-19, 24, 32-34, 43 and 52 have been copied from U.S. Patent No. 6,472,209, and the remaining claims are at least directed to substantially the same subject matter as the claims of that patent. The PTO has thus found that the subject matter of these claims does **not** constitute independent and distinct inventions. The outstanding Office Action fails to address this finding, much less explain any basis for the PTO to now alter it. Accordingly, absent such an explanation, the prior finding still controls.

Moreover, there would be no serious burden on the Examiner if the instant claims were examined together. Applicants note that the pending claims are all of the same class

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and subclass (Office Action at page 2). Where "the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among independent or related inventions." MPEP §808.02. Since neither of the applicable criteria for restriction is met with respect to the instant claims, the requirement for restriction is improper and should be withdrawn.

In order to fully comply with the restriction requirement, however, Applicants elect with traverse Group I, claims 34-40.

Withdrawal of the Restriction Requirement and examination of the Application is respectfully requested. If the Examiner has any questions, he is invited to phone the undersigned.

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Respectfully submitted,
/John A. Harrelson, Jr./
John A. Harrelson, Jr.
Registration No. 42,637

Woodcock Washburn LLP
Cira Centre
2929 Arch Street, 12th Floor
Philadelphia, PA 19104-2891
Telephone: (215) 568-3100
Facsimile: (215) 568-3439